No. 80-251

In the Supreme Court of the United States

OCTOBER TERM, 1980

BERNARD ROSTKER, DIRECTOR OF SELECTIVE SERVICE, APPELLANT

v.

ROBERT L. GOLDBERG, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BRIEF OF AMICUS CURIAE MEN'S RIGHTS, INC.

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AMICUS BRIEF OF MEN'S RIGHTS, INC.
Frederic Hayward, Director

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AMICUS BRIEF OF MEN'S RIGHTS, INC.

This brief is being filed with the consent of both parties.

INTERESTS OF THE AMICUS

Men's Rights, Inc. is a non-profit corporation deeply concerned with sexist attitudes and their impact upon American males. We are dedicated to the elimination of sexual prejudice and discrimination in all facets of our society. We find that the idea that protection is a MALE responsibility, as well as the idea that homemaking is a FEMALE responsibility, are the dual foundations of sexism. All-male draft registration

encourages -- indeed, enforces -- the stereotypes and roles which make sexism inevitable.

Men's Rights, Inc. believes that it is impossible to divide our society, racially or sexually, in a separate but equal fashion. In addition, we do not believe that women are inherently weak or dependent. Whatever reasons exist for excusing women from performing the tasks associated with registration will also be valid for large numbers of men and invalid for large numbers of individual women. To excuse all women, but no men, is not only contrary to our interest in utilizing all potential resources, but it is also contrary to our principle of equal protection.

The logic that excludes women from draft registration is the same logic that stereotypes women and relegates them to a position of caretaker for the home and hearth. It is the force which burdens men with the responsibility of military defense that incorrectly characterizes them as incapable of nurturing the physical, psychological, and emotional needs of their children.

Men's Rights, Inc. firmly believes that the Battle of the Sexes is an unhealthy situation. Inter-sex resentment and competition is the inevitable result of forcing males and females into limiting roles. The chasm between male and female experience is a major block to male-female understanding.

Our concern is for the equal protection of all people, white or black,

male or female. Our concern is for the equality and harmonious coexistence of the sexes. An all-male draft would teach us that male life is more expendable and that the male mentality is more militaristic than its female counterpart. We believe, however, that all life is equally precious, and that a military draft which specifically excludes females fails to consider the significant contribution women now make to our military, thus bypassing an enormous resource available to protect and to serve.

I. ISSUES PRESENTED FOR REVIEW

Did the lower court err as a matter of law in determining that the exclusion of women from the Military Selective Service Act was not substantially related to an important governmental function, and thus, violative of the United States Constitution?

II. STATEMENT OF THE CASE

In the interests of judicial economy, Amicus hereby adopts by reference the statement of the case set forth in appellee's brief.

III. SUMMARY OF ARGUMENT

Male-only draft registration is a gender-based classification which must necessarily be scrutinized in accordance with recent cases decided by this Court. The standard applicable to male-only draft registration is set forth in Craig v. Boren, 429 U.S. 190 (1976).

> Classifications by sex must serve important governmental objectives and must be substantially related to those objectives. (Id. at 197)

The decision of the government to subject only men to draft registration and automatically to exclude all women denies equal protection and is thus violative of due process unless it passes the heightened scrutiny standard of review articulated in Craig.

Although the appellant asserts that deferential scrutiny should be accorded to male-only registration, since it is "geared to national defense needs," they cite no case which wupports this extraordinary exception. Their reliance upon Schlesinger v. Ballard, 419 U.S. 498, is misplaced since that case is inapposite to the case at bar. Ballard does not, in fact, articulate such a standard and their reliance ignores the decision of this Court in Frontiero v. Richardson, 411 U.S. 677 (1973).

In Frontiero, this Court engaged in the heightened scrutiny set forth in Craig in striking down a gender-based discrimination in the compensation scale for military personnel. Frontiero controls in the case at bar, and the application of the heightened scrutiny standard by the lower court was correct.

The decision of Congress, in 1948, to authorize the registration of men but not of women cannot withstand the heightened scrutiny required in gender-based classification cases. The post hoc

rationalizations of the Subcommittee on Manpower and Personnel, S Rep. 96-826, should not be considered by this Court in assessing the constitutional adequacy of reasons for the exclusion of women from registration in a 1948 statute. Craig v. Boren, 429 U.S. at 199 n. 7.

Even if this Court were to consider those rationalizations, they would not be supported by the overwhelming weight of the evidence in the District Court. President Carter, the Director of Selective Service (the appellant), and the Undersecretary of Defense have all gone on record in support of female as well as male registration. No mention was made by these individuals, at the time of their support for registering both sexes, of concerns with decreased military flexibility.

The profferred rationale for the total exclusion of women from registration is that it enhances military flexibility. In other words, women would be in the way when the fighting started. The Amicus asserts that this rationale is specious and fails to consider the increasing significance of women in today's military.

The Amicus submits that the District Court decision should be affirmed since it correctly found that there was no substantial relationship between male-only registration and the governmental interest in increased military flexibility. Male-only registration is a subterfuge for archaic conceptualizations and stereotypes with respect to the roles of men and women in our society. These

conceptualizations and stereotypes are "raison d'etre" behind the total exclusion of females from draft registration. As a result the MSSA denies equal protection and violates due process.

IV. ARGUMENT

A. MALE-ONLY REGISTRATION MUST PASS THE HEIGHTENED SCRUTINY APPLIED TO GENDER DISCRIMINATION CASES.

The District Court "combed the record and the legislative history for purported justifications for the total exclusion of women from the MSSA" and found each proffered justification unconvincing (Jur. St. 232). It held that the male-only draft registration mandate, therefore, failed to meet the heightened standard of review for gender-based classification first enunciated by this Court in Craig v. Boren, 429 U.S. 190 (1976). Appellant acknowledges that gender-based classifications must ordinarily be judged under this standard (Jur. St. 8-9) but appellant then attempts to avoid the Craig standard in the case at bar by carving out an exception for "statutory classifications geared to national defense needs", where the deferential "rational relationship" scrutiny would apply (Jur. St. 7-8).

Appeallant's argument rests solely on the inapposite Schlesinger v. Ballard, 419 U.S. 498 (1975), and virtually ignores Frontiero v. Richardson, 411 U.S. 677 (1973). On analysis both cases, as well as this Court's other precedents, demonstrate that the District Court's application of the heightened standard,

enunciated in Craig and applied consistently to test gender classification since 1976, was correct.[1]

1. GENDER-BASED CLASSIFICATIONS ARE APPROPRIATELY JUDGED UNDER A STANDARD OF HEIGHTENED SCRUTINY.

Since Craig v. Boren, 429 U.S. 190 (1976), there has been but one test for gender-based classifications. In Craig, this Court stated that "to withstand constitutional challenge, ... classifications by sex must serve important governmental objectives and must be substantially related to those objectives." 429 U.S. at 197.

Starting with Reed v. Reed, 404 U.S. 71 (1971), this Court held that rationally serving "legitimate objectives (reducing the workload of Probate Courts and avoiding familial controversies) was not important enough to justify gender-based classifications." Furthermore, in Frontiero v. Richardson, 411 U.S. 677 (1973), as appellant concedes, the standard of heightened scrutiny was applied to a statute governing personnel matters entirely internal to the military. (Jur. St. 8).

This Court has repeatedly reaffirmed the principle that gender-based legislation must be tested by this more stringent standard.[2] The Court has applied two

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[1]Wengler v. Druggists' Mutual Insurance Co., 446 U.S. 142 (1980), Califano v. Webster, 430 U.S. 313, 317 (1976).

[2]Califano v. Westcott, 443 U.S. 76, 89

basic principals to gender classifications. First, over-generalizations concerning one sex or another cannot be substituted for gender-neutral means of distinguishing classes of individuals. Califano v. Goldfarb, 430 U.S. at 88 (1977). Second, the Court has consistently rejected the use of gender as a substitute for need in furthering even important legislative objectives.[3]

Finally, with respect to gender-based classifications, this Court has most recently held that the "burden is on those defending the discrimination to make out the claimed justification". Wengler v. Druggists Mutual, 100 S.Ct. at 1546.

Therefore, the Amicus submits that the unanimous and overwhelming weight of stare decisis clearly establishes that gender-based classifications are appropriately judged by a standard of heightened scrutiny, and that the appellant's contention that minimal scrutiny is applicable is without foundation and against the legal precedent of this Court.

(1979) Orr v. Orr, 440 U.S. 268, 279 (1979), see also Personnel Administrator of Mass. v. Feeney, 442 U.S. 256 (1979).

[3]See Orr v. Orr (Alabama alimony statute imposing burden solely upon husbands).

2. SCHLESINGER V. BALLARD NEITHER APPLIES NOR SUPPORTS THE APPLICATION OF THE RATIONAL RELATIONSHIP TEST TO GENDER DISTINCTIONS IN THIS CONTEXT.

Appellant relies upon Schlesinger v. Ballard, 419 U.S. 498 (1975), as authority for the application of the rational basis standard. The government argues that this was the standard applied therein. In the lower court, however, the government more accurately characterized Ballard as a case where "the Court did not specify the standard of review it was applying" (R 1070-71).

In Ballard, this court upheld a federal statute whereby naval men with more than 9 years of active service, but not women, were subject to mandatory discharge upon their being passed over for promotion. Women could serve 13 years before being subject to discharge for lack of promotion.

At trial, the government urged Ballard as supporting a rational basis test in cases involving military matters. After careful anlysis, the District Court correctly rejected that argument. As the District Court noted, Ballard was a case where (1) there was no disparate treatment of similarly situation individuals, and (2) the Supreme Court expressly rejected administrative convenience as a basis for different treatment of even dissimilarly situated males and females.

If Ballard supported appellant's reading, it would have overruled Frontiero. Frontiero, however, remains as a vital

precedent cited by this Court in both Ballard, 419 U.S. at 506, and Craig, 429 U.S. at 198.

Ballard does not govern in the instant case; Frontiero does. In Frontiero, this Court declared unconstitutional certain laws under which military men received a housing allowance and health care for their wives, even though military women received these benefits only if the women supplied over three-quarters of the couple's support. Although these laws were within the Congressional power to raise and support armies, Article I §8 cl. 12, appellant concedes that heightened scrutiny was applied in rejecting the sex discrimination of those laws. (Jur. St., 8).

Appellant has attempted to distinguish Frontiero on the ground that this statute related to financial compensation only and not to military preparedness. (Jur. St., 9, 10). This distinction fails to consider the significance of compensation and family living conditions upon military preparedness. Certainly the security of better pay and living conditions enhances morale and thus preparedness as much as do promotions. The law in Frontiero which this Court subjected to a heightened standard of review represents a larger infringement into the workings of day-to-day military affairs than the registration of males under MSSA.

A thorough analysis of Ballard reveals that it does not stand for the proposition set forth by the appellant. Frontiero controls, and that case is consistent with the subsequent decisions

of this Court concerning gender-based classifications.

3. THE ADDITIONAL CASES CITED BY THE APPELLANT ARE INAPPOSITE AND FAIL TO SUPPORT THEIR ARGUMENT FOR MINIMAL SCRUTINY.

The government's analogy to First Amendment cases arising in defense contexts (Jur. St., 10) fails to support minimal scrutiny for male-only registration. While it is true that considerations of military discipline and morale may justify a reduction in a soldier's First Amendment rights, those cases cited by the appellant involve matters wholly internal to the military.

For example, Brown v. Glines, 444 U.S. 348 (1980), was a challenge to Air Force regulations that required command approval before the circulation of petitions on Air Force Bases. This case is inapposite to the case at bar in that draft registration applies to civilians, not soldiers subject to discipline, transfer and military rules and regulations.

Greer v. Spock, 424 U.S. 828 (1976), is another case cited by the appellant which is readily distinguishable from the instant case. It involved a ban on political speeches on military bases. As in Glines, the First Amendment was involved and not due process or equal protection. Furthermore, the regulations involved were totally within a military context and entwined with discipline and the abdication of rights necessary thereto. It is distinguishable from the case at

bar in both its focus (First Amendment) and its context.

The appellant cites a series of cases in its brief seeking to justify the employment of the minimal standard whenever the war power of Congress is called into question (e.g., U.S. v. Robel, 389 U.S. 258 (1964)). An examination of these cases, however, clearly establishes that they involve substantive challenges to rules concerning military discipline, an area of extraordinary concern of the military.[4]

A brief recitation of their facts reveals how easily they can be distinguished from the case at bar. Secretary of the Navy v. Huff, 444 U.S. 453 (1980) (Command approval for petitions by military personnel); Middendorf v. Henry, 425 U.S. 25 (1976) (Summary court martial challenged on Sixth amendment grounds); Parker v. Levy, 417 U.S. 733 (1974) (Due process challenge to court martial for conduct unbecoming an officer); Burns v. Wilson, 346 U.S. 137 (1953) (Due process challenge to court martial); Orloff v. Willoughby, 345 U.S. 83 (1953) (Inductee seeking judicial review of his duty assignment).

The case cited in the appellant's brief which is most relevant to the case at bar is Korematsu v. U.S., 325 U.S. 214 (1944). This case dealt with an equal

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[4]See Schlesinger v. Councilman, 420 U.S. 755, 757 (1975).

protection challenge to civilian exclusion order #34 (which forbade persons of Japanese ancestry to remain in "military areas"). Even though the Court upheld the order, it ruled that this order was subject, nevertheless, to the "most rigid scrutiny" 325 U.S. at 216.

Thus, the untenable nature of the appellant's profferred standard of review is underscored by the total lack of precedent supporting it. To cite case after case involving purely intramilitary fact situations as having a bearing upon the constitutionality of civilian draft registration demonstrates that the heightened scrutiny applied to gender-based classifications must be applied in the case at bar.

Finally, should appellant's standard of review seeking the undemanding examination of classifications be applied, it could open the door to legislation pursuant to the war power which could discriminate on the basis of race or national origin.

In a context where so many liberties are involved, male-only draft registration must be reviewed in accordance with the precedent of Reed, Frontiero and Craig.

B. THE JUDGMENT OF THE LOWER COURT SHOULD BE AFFIRMED SINCE THE RECORD DISCLOSES NO JUSTIFICATION FOR MALE-ONLY REGISTRATION IN THE MSSA.

It is uncontentested that when Congress enacted the MSSA in June 1948, it gave no explicit consideration as to whether male-only registration was more or less effective than a registration including women. The Government has, in fact, conceded that the exclusion of females from registration has not been considered in any of the statutory history of the Military Selective Service Act (R 1714).

Furthermore, Deputy Assistant Attorney General Lawrence Sims, in his appearance before the House Subcommittee on Military Personnel on March 5, 1980, described the congressional attitude in 1948 in the following terms:

> ...to summarize, that legislative history, it is replete with the kind of sexual stereotypes and that kind of thinking that the court has subsequently held will not support the constitutionality of a legislative act of Congress. (12 1044 Jur. St. 232, n.15).

In the District Court, the stereotypes cited included statements that men would not take orders from female officers and women would get married before they qualified for pensions. (Jur. St., 23a n.15).

The appellant's principal source of facts relied upon to support male-only

registration is S. Rep. 96-826 April 22, 1980, the report of the five-man majority of the Senate Subcommittee on Manpower and Personnel (R874-886). Appellant argues that the registration of women would lead to reduced military flexibility and a myriad of administrative problems since, in the case of conscription, the military would be in need of individuals to fill combat positions and there are enough female volunteers to fill non-combat positions.

It should be pointed out that this rationale was developed post hoc and in fact was specifically developed for use in this case. This makeshift rationalization should not be considered by the Court in determining whether the MSSA passes constitutional muster. Craig v. Boren, 429 U.S. at 199 n.7. Under the heightened scrutiny requird, only evidence of actual legislative intent at the time that the legislation is passed may be invoked to defend discriminatory legislation.[5]

A thorough examination of the legislative history set forth in the record clearly discloses that Congress never actually addressed and considered the purported decreased flexibility that the appellant contends would ensue from the registration of females. Undeniably, nothing in the history of this legislation provides the government with a rationale for male-only registration

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[5]Califano v. Westcott, 443 U.S. at 86-88; Weinberger v. Weisenfeld, 420 U.S. 636, 648 (1975).

which can withstand constitutional scrutiny.

1. MALE-ONLY REGISTRATION DOES NOT ENHANCE MILITARY FLEXIBILITY AND IS MYOPIC IN ITS FAILURE TO CONSIDER THE CONTRIBUTION OF WOMEN TO TODAY'S MILITARY

Assuming "arguendo" that this Court will consider the post hoc rationale of military flexibility in determining whether male-only registration is substantially related to an important government purpose, the Amicus submits that this rationale is specious and fails to consider the important roles females are assuming in today's military.

In 1980 President Carter, as Commander-in-Chief, did not feel that female registration would decrease the flexibility of the military in meeting exigencies at home and around the world. In his presidential recommendation pursuant to P.L. 96-107 (February 11, 1980) (R 196) he decided to "seek authority to register, classify, and examine women for service in the armed forces..." The President concluded in his recommendation:

> Equity can be achieved by registering both men and women and then providing that they serve in proportion to the ability of the armed forces to use them effectively. Conscription would be based upon actual military personnel needs at the time. (R 201).

The Director of Selective Service, appellant in this case, urged the various subcommittees to support the registration of women:

> I think it behooves us to have as large a base as possible commensurate with the jobs that the Defense Department requires to be done and the skills and abilities of the people who are available to do those jobs. (R 1049)

In addition to the position of President Carter, and the Director of Selective Service, the Assistant Secretary of Defense concurred with his Commander-in-Chief in stating:

> The performance of women in our armed forces today strongly supports the conclusion that many of the best qualified people for some military jobs in the 18-26 age category will be women ... [those women] should be available for service in the jobs. (R 1033)

Thus the newly found argument of the appellant that female registration will detract from military flexibility has been refuted by those in the best position to assess the impact with respect to flexibility that female registration would have. The District Court found that it was incongruous that Congress believes on the one hand that it substantially enhances our military defense to expand the utilization of women in the military while on the other hand endorses legislation excluding women from the pool of registrants.

As the court below noted, women have been admitted into the armed services in greater numbers. From 1967 to 1977 women in the armed services increased from .78% to over 5%. In Vietnam more than 7000 women served in support roles which qualified for combat pay. In the Air Force, 35% of the women (some 20,000) serve in non-traditional jobs, many of these directly related to the care and maintenance of fighter aircraft and missile operations.[6]

In light of women's increasing role in the military and the support that female registration has received from President Carter, the Director of Selective Service, the Undersecretary of Defense, as well as the Joint Chiefs of Staff, it is perfectly understandable and correct that the Court should reject the proffered, after-the-fact, military flexibility argument of the appellant. The record is replete with instances where registration of women would only enhance military flexibility. The appellees and the Amicus recognize the ineluctable fact that a greater resource pool maximizes flexibility rather than detracts from it.

Furthermore, the focus of this appeal is upon the exclusion of females from the responsibilities and potential penalties of draft registration. The Amicus recognizes full well that conscription and the utilization of personnel within the military sphere is within the province of

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[6]Department of Defense Background Study -- Use of Women In The Military at p. 5 (2d ed. 1978).

congressional war power. Male-only draft registration, rather than increasing military preparedness, ignores a vital, creative, and flexible resource which has clearly demonstrated its beneficial impact upon the military.

No better authority exists than General Dwight D. Eisenhower to reinforce the position of the appellees and Amicus. In 1948, he testified as follows:

> Like most old soldiers I was violently against women soldiers. I thought a tremendous number of difficulties would occur, not only of an administrative nature ... but others of a more personal type that would get us into trouble. None of that occurred ... in the disciplinary field they were a model for the Army. More than this their influence throughout the entire command was good -- I am convinced that in another war they have got to be drafted just like men.[7]

2. MALE-ONLY REGISTRATION IS BASED ON ARCHAIC AND OVERBROAD GENERALIZATIONS ABOUT MALES AND FEMALES.

The military selective service system is the single most visible example of

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[7]Hearings on S1614 before the Subcommittee on Organization and Mobilization of the House Committee on Armed Services (80th Cong., 2d Sess. No. 238 at 5563-64 (1948) (Emphasis Added).

sex-role stereotyping in our society. It is implicit in male-only registration that men are, because of their innate qualities, better suited to war than women. Thus, male-only registration perpetuates the idea that men are the reckless, aggressive, violent, and insensitive members of our society. Conversely, the idea that men can be gentle, loving fathers, as fit as women for child rearing is discredited.

In U.S. v. St. Clair, 291 F.Supp. 122 (S.D.N.Y., 1968), the Court found Congress' justification for male-only compulsory military service as follows:

> In providing for involuntary service for men and voluntary service for women, Congress followed the teachings of history that if a nation is to survive men must provide the first line of defense while women keep the home fires burning. (291 F.Supp. at 126.)

This Court has soundly rejected statutory schemes based upon such overbroad generalizations. Craig v. Boren, 429 U.S. 190 (1976); Weinberger v. Weisenfeld, 420 U.S. 636 (1975); Stanley v. Illinois, 405 U.S. 645 (1972).

In Weisenfeld this Court said the following:

> The fact that a man is working while there is a wife at home does not mean that he would, or should, be required to continue to work if his wife dies. It is no less important for a child to be cared for by

> its sole surviving parent when that parent is male rather than female. And a father, no less than a mother, has a constitutionally protected right to the "companionship, care, custody, and management" of the children he has sired and raised (citation omitted). (420 U.S. at 652.)

Sex role stereotyping is totally reinforced by male-only registration. Being the only ones eligible for compulsory military service, men are cast as expendable while women are cast as caretakers of the home and hearth. Women are to be protected from the ugliness of war, whereas men can be so subjected.

It has been the history of the debate on the discriminatory aspect of male-only registration that the armed services have endorsed registration of women and have supported their position with ample evidence that women have been and will continue to be useful in all branches of the armed services. Male-only registration is thus based upon certain outmoded perceptions by a handful of congressmen. These perceptions cannot withstand constitutional challenge.

In addition to the perpetuation of stereotypes, male-only draft registration runs counter to the will of the American public. Recent poll analyses clearly demonstrate that the majority of men and women surveyed prefer male-female registration to male-only registration. In a Gallup poll taken on March 2, 1980, 59% of the men and 52% of the women surveyed

favored a male-female registration, whereas 25% of males and 29% of the females were in favor of a male-only registration.[8] Subsequently on July 20, 1980 the Gallup surveys of adult males and females revealed that 53% of the men and 49% of the women favored the registration of both males and females, while 23% of the men and 25% of the women favored male-only registration. (Id.)

These surveys demonstrate that the body politic of this country has recognized that the burden and potential liabilty entailed in compulsory draft registration should be borne equally by males and females in the 18-26 age bracket. The Amicus submits that the recent history of this country has shown that the American public's perception of what is beneficial to the country is not always reflected in congressional attitudes.

The Amicus submits that the after-the-fact conclusion by a handful of congressmen, that female registration will result in decreased flexibility in military preparedness, is neither supported by those in the best position to know nor the public at large. This flexibility rationale is merely a subterfuge for the perpetuation of paternalistic and sexual conceptualizations that the American people currently feel are not substantially related to an important governmental objective.

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[8]See Analysis Shows Most Americans Oppose Men Only Draft Registration and a Men Only Draft, Ledden (1981) p. 4.

3. THE RECORD, AS WELL AS THE OVERWHELMING WEIGHT OF STARE DECISIS, SUPPORTS THE DECISION OF THE LOWER COURT.

The District Court found that, rather than enhancing military flexibility, it

> ...is the antithesis of flexibility to exclude women from the pool of registrants that could be called upon in a time of national need. (Jur. St., 432)

As the result of this finding, which was amply supported throughout the record, the District Court held that,

> ...the complete exclusion of women from the pool of registrants does not serve "important governmental objectives and is not substantially related", (Craig v. Boren supra at 197) to any alleged governmental interest. (Jur. St. 43A)

The Amicus submits that the findings and rulings of the District Court are totally supported by the overwhelming weight of the evidence as well as the legal precedent involved. No other decision could have been rendered. It was legally correct and is, in addition, consistent with the wishes of the body politic.

CONCLUSION

For the foregoing reasons, the judgment of the District Court should be affirmed.

Respectfully submitted,

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MEMBERS
DISTRICT OF COLUMBIA BAR

February 5, 1981

Fredric Hayward, Director
Men's Rights, Inc.
Box 8J
402 Rindge Avenue
Cambridge, MA 02140

Re: Goldberg v. Rostker

Dear Mr. Hayward:

Thank you for your letter of January 29, 1981. I am pleased to confirm that appellees consent to the filing of an amicus brief by the organizations which you represent.

Very truly yours,

Donald L. Weinberg

DLW:mfp

United States Department of Justice
Office of the Solicitor General
Washington, D.C. 20530

January 19, 1981

Fredric Hayward, Esquire
Director
Men's Rights, Inc.
Box 8J
402 Ridge Avenue
Cambridge, Massachusetts 02140

Re: No. 80-251, Goldberg v. Rostker, et al.

Dear Mr. Hayward:

You have requested our consent to the filing of an amicus curiae brief in this case on behalf of the Men's Rights, Inc. I am happy to consent to that filing.

Sincerely,

Wade H. McCree, Jr.
Solicitor General

cc:
Alexander L. Stevas, Esquire
Clerk
Supreme Court of the United States
Washington, D.C. 20543